

ORDINANCE NO. 09-342

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS REPEALING ORDINANCE NO. 09-332 IN ITS ENTIRETY AND FORMING THE FIRST STREET UNDERGROUND UTILITY DISTRICT ON FIRST STREET BETWEEN MAIN STREET AND WEST EDITH AVENUE IN THE CITY OF LOS ALTOS; AND ORDERING THE REMOVAL OF CERTAIN POLES, OVERHEAD WIRES, AND ASSOCIATED OVERHEAD STRUCTURES

WHEREAS, the City Council hereby acknowledges that this action is categorically exempt from CEQA pursuant to Section 15302(d) of the Guidelines which exempts replacement or reconstruction of existing structures or facilities with new structures located on the same site as the structure to be replaced and has substantially the same purpose and capacity; and

WHEREAS, the City Council of the City of Los Altos ("City") wishes to form an underground utility district; and

WHEREAS, Pacific Gas & Electric requires that an underground utility district be formed on First Street between Main Street and West Edith Avenue; and

WHEREAS, Ordinance No. 67-12, adopted March 21, 1967, establishes procedures for the formation of an underground utility district, which has been followed; and

WHEREAS, California Public Utilities Code Rule 20A funds are available to pay for aerial to underground electrical service conversions and undergrounding of public utility main and service lines, as more fully described in this Ordinance; and

WHEREAS, Ordinance No. 67-12 further establishes regulations and procedures for the converting of aerial electric and communication facilities along with the removal of their associated support structures to underground facilities for the supply of electric, communication, or similar services in designated districts within the City; and

WHEREAS, on December 10, 2008, the City scheduled a duly noticed public meeting on for the purpose of ascertaining whether the public necessity, health, safety, or welfare required the removal of poles, overhead wires and associated overhead structures on First Street between Main Street and West Edith Avenue; and

WHEREAS, on January 13, 2009, the City Council held a duly noticed public hearing, at which hearing the City Council considered all testimony and evidence, including any written protests previously submitted, and all persons desiring to submit written or oral testimony regarding the City's First Street Underground Utility District or otherwise desiring to be heard on the matter; and

WHEREAS, there have been recent changes to the First Street Underground Utility District ("District") that require changes to Ordinance No. 09-332, and to avoid confusion as to which ordinance applies to the District, Ordinance No. 09-332 will be repealed.

The City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1.** Ordinance No. 09-332, is hereby repealed in its entirety and is no longer in further force or effect, and is replaced by a new Ordinance No. 09-342, to read as set forth below.

**SECTION 2.** Following notice and public hearing thereon, the Council authorized that an underground district be formed within the area of the City of Los Altos designated as the District, as set forth in Exhibit "A," attached hereto and made a part thereof by reference.

**SECTION 3.** Following notice and public hearing thereon, the Council found that the public necessity, health, safety and welfare require, and this Council hereby orders: (1) the removal of poles, overhead wires and associated overhead structures from the public streets, alleys and ways within the District, and (2) the underground installation therein of said wires to supply and distribute electrical energy and service, telephone, telegraph service, cable television service or similar or associated service except as otherwise provided pursuant to Ordinance No. 67-12. The above finding was made in part by reason of the extensive use of the streets in said District, and the heavy volume of pedestrian and vehicular traffic thereon, and to eliminate an unusually heavy concentration of overhead facilities.

**SECTION 4.** The public streets, alleys and ways, or portions thereof from which such poles and overhead wires and associated overhead structures must be removed, and such underground installation made, are all those within the District, excluding all transmission facilities of 60kV or higher and support pole(s). Said ability for use of the undergrounding portion of the District is expected to be no later than December 31, 2012, or at a date set by Council by resolution. All properties that are to receive underground electric, telephone or cable television service shall be ready to receive such underground service on or before that date. Said removal of poles, overhead wires, and associated overhead structures shall be completed no later than September 30, 2014, or at a date set by Council by resolution.

**SECTION 5.** The right of entry granted by affected property owners for the performance of work necessary in connection with the construction of the District, authorizes the contractor, public utility or city, and their respective agents and employees to enter upon said lot or parcel for such purposes and waives any right of protest or objection with respect to the doing of such work of conversion.

**SECTION 6.** The City does hereby request that the Pacific Gas & Electric Company and AT&T provide payment, computed pursuant to Rule 20A and Rule 32 respectively for the installation of no more than one hundred (100) feet (measured from the property line) of trenching, excavation, conduit installation, backfill, and surface restoration of each customer's individual service lateral to each qualifying premise affected by the District. Each other serving utility will provide service trenching and conductor in accordance with its tariffs on file with the California Public Utilities Commission or as required by its Franchise Agreement with the City.

**SECTION 7:** The City Council does hereby request that the Pacific Gas & Electric Company pay, from the existing Rule 20A allocation, for the conversion of electric service panels to accept underground service, up to \$1,500 per service entrance, excluding permit fees.

**SECTION 7. NOTICE.** Within ten (10) days after passage of this Ordinance, the City Clerk shall notify all affected utilities and all persons owning real property within the District of the adoption hereof by mailing a copy of this Ordinance, together with a copy of Ordinance No. 67-12, to the affected utilities and to affected property owners as such are shown on the last equalized assessment roll of the County of Santa Clara.

**SECTION 9. PUBLICATION.** This Ordinance shall be published as provided in Government Code section 36933.

**SECTION 10. EFFECTIVE DATE.** This Ordinance shall be effective upon the commencement of the thirty-first day following the date the adopted ordinance is attested by the City Clerk.

**SECTION 11. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

The above and foregoing Ordinance was duly and properly introduced at a regular meeting of the Los Altos City Council held on the 13<sup>th</sup> day of October 2009, and was thereafter, at a regular meeting of the Los Altos City Council held on the 27<sup>th</sup> day of October 2009.

PASSED AND ADOPTED by the following vote:

AYES: PACKARD, CARPENTER, CASAS, BECKER, SATERLEE

NOES: NONE

ABSENT: NONE

  
Megan Satterlee, MAYOR

Attest:

  
Susan Kitchens, CITY CLERK

Date: November 16, 2009